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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

IGNACIO L. BRAMBILA,

Defendant and Appellant.

D074955

(Super. Ct. No. SCD258499)

APPEAL from a judgment of the Superior Court of San Diego County, Laura Birkmeyer, Judge. Affirmed.

Britton Donaldson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In 2014, Ignacio L. Brambila pleaded guilty to robbery (Pen. Code,<sup>1</sup> § 211); felony child abuse (§ 273a, subd. (a)); and driving under the influence of drugs (Veh. Code § 23152, subd. (e)).

In 2015, Brambila was placed on five years formal probation.

In August 2018, Brambila was arrested on a felony warrant. At the time of his arrest he was in possession of controlled substances and drug paraphernalia. He was later charged with several probation violations.

Following a contested probation violation hearing, the trial court found Brambila had violated several terms of his probation and probation was revoked. The court sentenced Brambila to the middle term of four years for child abuse and a consecutive term of one year (one third the middle term) for robbery. The court imposed various fines. Brambila was awarded a total of 723 days of custody credits.

Brambila filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), indicating counsel has not been able to identify any arguable issue for reversal on appeal. Counsel asks this court to review the record for error as mandated by *Wende*. We offered Brambila the opportunity to file his own brief on appeal, but he has not responded.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified/

## STATEMENT OF FACTS

In August 2018, an officer found Brambila in his car, parked on the property of a high school. The officer contacted Brambila and ran a record check. The officer discovered a felony arrest warrant for Brambila. Brambila resisted getting out of the car and produced a needle with a brown substance in it. Brambila threatened to inject himself. He told the officer that he had AIDS and if he was going to jail he wanted to get high.

Ultimately the officer got Brambila out of the car. A search of the car produced nine hypodermic needles, two baggies of crystalized substance and two glass pipes.

There was also testimony that Brambila had failed to report to the probation officer on several occasions. Brambila also failed to complete several programs in which he was ordered to participate.

## DISCUSSION

As we have noted, counsel has filed a brief pursuant to *Wende* and has asked this court to review the record for error. In order to assist the court in its review of the record, and in compliance with *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel has identified the following possible issues for our consideration: 1) Whether the court properly found Brambila violated probation; 2) whether the court properly articulated its reasons for imposing the middle term; and 3) whether Brambila was denied due process when the court imposed the probation restitution fines without inquiring whether he had the ability to pay the fines.

We have reviewed the entire record as required by *Wende* and *Anders*. We have not identified any arguable issue for reversal on appeal. Competent counsel has represented Brambila on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

IRION, J.

DATO, J.